

### REMARKS

In the office action mailed June 5, 2008, the Examiner rejected pending claims 1, 5-8, 15-19, and 22 under 35 U.S.C. § 102(e) and additionally rejected pending claims 2-4 and 10 under 35 U.S.C. § 103(a). In addition, the Examiner rejected pending claim 22 under 35 U.S.C. § 112, second paragraph. In reply, Applicant has amended claims 1, 15, and 22. As such, claims 1-22 remain pending with claim 9 cancelled earlier. Applicant respectfully requests the Examiner's reconsideration of pending claims in view of the amendments above and the arguments set forth in this response.

Applicant notes that a phone call to the Examiner took place on June 19, 2008 asking for clarification on language regarding a possible U.S.C. § 101 rejection cited in the final office action of June 5, 2008. The examiner confirmed that NO section 101 rejection is being made in the final office action.

Claims 1, 15, and 22 are amended to recite that marketing campaigns comprise "at least a first campaign step directed to a first target group and a second campaign step directed to a second target group, wherein the second target group is a subset of the first target group..." Support for these amendments can be found in the specification on page 10, lines 7-12 "The user may begin creating the campaign 201 using the start step 202. After the start step 202, the user may place a p/d [prediction/decision] step 203, followed by a first campaign step 204. At this or another stage, the user may decide which target group is to be used for the first campaign step 204. The user may select the target group among those available in memory 160. For example, the user may decide to begin the campaign 201 with a target group consisting of all customers of record." Further support is shown on page 13, lines 18-21 "It now becomes desirable to specify the marketing campaign further by assigning customers to specific ones of the alternative second campaign steps 207, 208 and 209. The relevant customers for the second campaign step are those that were predicted to respond to the first marketing step."

No new matter is added.

### **Claim Rejections - 35 U.S.C. § 112**

The Examiner rejected claim 22 under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claim 22 to address the issue raised by the Examiner, and asks that the Examiner remove the rejection of claim 22 on this basis.

### **Claim Rejections - 35 U.S.C. §§ 102 and 103**

The Examiner rejected pending claims 1, 5-8, 15-19, and 22 under 35 U.S.C. § 102(e) as being anticipated by Blume et al (USPN 6,839,682) ("Blume"). In addition, the Examiner rejected pending claims 2-4 and 10 under 35 U.S.C. § 103(a) as being unpatentable over Blume in view of Samra et al (USPN 7,003,476) ("Samra") and rejected claims 11-12 and 20-21 as being unpatentable over Blume in view of Lin et al (USPN 6,847,934) ("Lin"). Claims 1, 15, and 22 are independent claims. These rejections are rendered moot by the above amendments, but Applicant is not conceding that the rejections have merit.

Applicant submits that claims 1-8 and 10-22 as amended are patentable over the cited references because the cited references, taken alone or in combination, do not teach or suggest "a method of predicting outcomes of marketing campaigns comprising at least a first campaign step directed to a first target group and a second campaign step directed to a second target group, wherein the second target group is a subset of the first target group and the campaign steps are to be performed consecutively," as recited in Applicant's independent claims. Additionally, none of the cited references teach or suggest using multiple campaign steps directed at multiple target groups performed consecutively in order to predict the success of a marketing campaign before performing the steps of the campaign.

Applicant's claimed subject matter is directed to predicting the outcome of campaign steps as a planning mechanism for creating, building, and implementing a successful marketing campaign. More particularly, Applicant's claimed subject matter relates to predicting the success of one or more marketing campaign steps that have yet to be executed alone or in combination for one or more target groups. For example, a target group may be generated that is representative of customers who are likely to respond to an earlier campaign step. The response sample target group may be used for predicting the outcome of subsequent steps of the multi-step

marketing campaign and thus predict the likelihood of success for each particular campaign step in combination before actually performing any of the steps (see spec. page 28, lines 4-12).

Unlike Applicant's claimed subject matter, Blume is directed to the analysis of consumer financial behavior to predict future spending of consumers related to a particular product (col. 3, lines 35-40) or merchant or vendor (col. 12, lines 13-15). Nowhere does Blume suggest that multiple campaign steps are analyzed in combination for purposes of predicting the outcome of success of performing one or more campaign steps on multiple subsets of consumers.

Accordingly, Blume fails to disclose or suggest "a method of predicting outcomes of marketing campaigns comprising at least a first campaign step directed to a first target group and a second campaign step directed to a second target group, wherein the second target group is a subset of the first target group and the campaign steps are to be performed consecutively". Particularly, Blume does not disclose or suggest at least the steps of "selecting the second target group" and "predicting an outcome of performing also the second campaign step ...".

The other references cited in the office action (Samra and Lin) do not cure the deficiencies of Blume. Like Blume, Samra and Lin do not disclose multiple ad campaign steps directed to multiple target groups, performed consecutively, for the purpose of predicting a successful marketing campaign.

Thus, the cited references, whether taken alone or in combination, simply do not teach or suggest all elements of Applicant's amended independent claims.

Nor do the cited references, taken alone or in combination, render Applicant's independent claims obvious, because Applicant's claimed subject matter can provide embodiments with features and advantages the cited references do not suggest or contemplate. For example, Applicant's claimed subject matter can perform the step of "predicting an outcome of performing [a] second campaign step toward [a] second target group after [a] first campaign step, wherein the second target group is a subset of the first target group."

For at least the foregoing reasons, independent claims 1, 15, and 22 define patentable subject matter over the prior art of record. The dependent claims recite further useful features and are patentable at least in view of their dependency. Applicant respectfully requests that the Examiner remove the rejections under 35 U.S.C. §§ 102 and 103 of independent claims 1, 15, and 22.

## Conclusion

Applicant submits that the claims 1-8 and 10-22 as amended are in condition for allowance, and request favorable consideration of these claims.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Please apply \$490 for the petition for extension of time and any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: November 5, 2008

/s/ richard soderberg reg. no. 43,352/

J. Richard Soderberg  
Reg. No. 43,352

Fish & Richardson P.C.  
60 South Sixth Street  
Suite 3300  
Minneapolis, MN 55402  
Telephone: (612) 335-5070  
Facsimile: (877) 769-7945